

RECEIPT # 50068
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SUMMONS ISSUED Y IN THE UNITED STATES DISTRICT COURT
LOCAL RULE 4.1 Y DISTRICT OF MASSACHUSETTS
WAIVER FORM Y
MCF ISSUED
BY DPTY. CLK. 053
DATE ZIPWALL, 9/18/03

Plaintiff

v.

KWIKPOLE, INC.,

Defendant.

Civil Action No.: **03CV11658 RE**

COMPLAINT AND JURY DEMAND

1. Plaintiff, ZipWall, LLC ("ZipWall"), is a Connecticut Limited Liability Company, having a principal place of business at 37 Broadway Street, Suite 2, Arlington, Massachusetts.

2. On information and belief, Defendant KwikPole, Inc. ("KwikPole"), is an Idaho Corporation having a principal place of business at 100 Lees Gulch Road, Bellevue, Idaho.

3. This action arises under the patent laws of the United States, Title 35 of the United States Code.

4. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b).

Count I (Patent Infringement)

6. ZipWall repeats and realleges paragraphs 1-5 above.

7. ZipWall is the owner of United States Patent No. 6,209,615 (the "'615 patent") issued on April 29, 1999, and has the right to sue on the '615 patent. A copy of the '615 patent

7. ZipWall is the owner of United States Patent No. 6,209,615 (the "'615 patent") issued on April 29, 1999, and has the right to sue on the '615 patent. A copy of the '615 patent is attached as Exhibit A.

8. Defendant KwikPole is marketing and selling goods nationally which are covered by one or more claims of the '615 patent.

9. Defendant KwikPole advertises these goods nationally, solicits electronic offers over the Internet to purchase these goods and exhibits these goods at national trade shows.

10. On information and belief, KwikPole has shipped these goods into Massachusetts.

11. Defendant KwikPole has infringed, and is continuing to infringe, the '615 patent by making, selling, offering to sell, and using within the United States goods covered, literally or by equivalents, by one or more of the claims of the '615 patent.

12. Defendant KwikPole is inducing and contributing to infringement by others of the '615 patent, by causing others to make, use, sell, or offer to sell goods covered, literally or by equivalents, by the '615 patent within the United States.

13. Defendant KwikPole's infringement of the '615 patent is and has been willful, has caused and will continue to cause ZipWall to suffer substantial damages, and has caused and will continue to cause ZipWall to suffer irreparable harm for which there is no adequate remedy at law.

WHEREFORE, ZipWall requests that this Court:

A. Enter a preliminary and permanent injunction enjoining KwikPole and its affiliates, subsidiaries, officers, directors, employees, agents, representatives, licensees, successors, assigns, and all those acting for either of them or on their behalf, or acting in concert

with them, from further infringement of the '615 patents;

- B. Award ZipWall compensatory damages and its costs and interest;
- C. Award ZipWall treble damages for KwikPole's willful infringement of the '615, patent;
- D. Award ZipWall its reasonable attorneys' fees under 35 U.S.C. § 285; and
- E. Award ZipWall such other relief as the Court deems just and proper.

ZIPWALL DEMANDS A TRIAL BY JURY ON ALL ISSUES SO TRIABLE.

Respectfully submitted,

ZIPWALL INCORPORATED

September 5, 2003

by:



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